IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 458 of 1996

in

SPECIAL CIVIL APPLICATIONNo 7717 of 1995

with

CIVIL APPLICATION NO. 2737 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANSUKHBHAI H CHAUHAN

Versus

JETPUR NAGARPALIKA

Appearance:

1. LETTERS PATENT APPEAL No. 458 of 1996

MRS VASAVDATTA BHATT for Appellant No.

..... for Appellant No.

MR JR NANAVATI for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1,2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 22/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. Heard the learned counsel for the parties. In view of the peculiar facts and circumstances, both the learned counsel for the parties had left it to the court for passing appropriate order.

#. Against the order dated 10.04.1996 passed by the learned single Judge of this court dismissing the special civil application no. 7717 of 1995, the appellants-petitioners have filed this appeal which is admitted and pending since long for about one decade. Civil application no. 4184 of 1996 filed in this appeal is already finally disposed of by the Hon'ble First court way back on 02.07.1996 by ordering that no termination of the service of the applicants - appellants till the main appeal is finally disposed of. In pursuance of the interim order passed by the Division Bench of this court, the appellants - original petitioners are still in service.

#. Their services were sought to be terminated by an order dated 08.09.1995 Annexure `D' to the main petition. Initially, the learned single Judge of this court stayed the order of their termination but later on, after biparte hearing, dismissed the petition and vacated the ad-interim relief. As stated earlier, in civil application filed in this appeal, their services were protected by interim order, that is how all the appellants - petitioners have continued to remain in service till today.

#. It is not in dispute that reference filed by the appellants before the Industrial Tribunal, Rajkot is still pending. In that view of the matter, we are of the considering opinion that no useful purpose will be served by keeping this appeal alive any more. Accordingly, this appeal is disposed of in view of the reference pending before the Industrial Tribunal, Rajkot. It is true that the learned single Judge has dismissed their petition on 10.04.1996 but when the reference is pending before the

Industrial Tribunal, then we are sure that the same shall not come in the way of the appellants and the Industrial Tribunal will decide the reference strictly in accordance with law on the material placed before it without being swayed away by the rejection order dated 10.04.1996 passed by the learned single Judge of this Court.

#. Once we dispose off this appeal on this ground of the reference being pending before the learned Tribunal, then their services which are so far protected has to be protected till the final disposal of the reference by the Industrial Tribunal. Accordingly, interim relief granted earlier on civil application no. 4184 of 1996 restraining the respondents from terminating their services shall continue till the reference is finally heard and decided by the Industrial Tribunal.

#. Appeal is accordingly disposed of with no order as to costs.

CIVIL APPLICATION NO. 2737 OF 2004 :

Learned counsel Mrs.Bhatt does not press her civil application no. 2737 of 2004 in view of the aforesaid order. Accordingly, it is disposed of as not pressed.

(B.J.SHETHNA, J)

(SHARAD D DAVE, J)

srilatha